

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appln No.: 09/698,310

Applicants: William L. Reber

Filed: October 27, 2000

For: Method and System for
Facilitating Tasks Using
Images and Selections from
Object Class and Task Menus

TC/A.U.: 3627

Examiner: James A. Kramer

Docket No.: 83528

Customer No.: 22242



Confirmation No. 6204

CERTIFICATE OF MAILING

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2/2/2006
Date


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APPELLANT'S APPEAL BRIEF UNDER 37 C.F.R. 41.37

Commissioner for Patents
P.O. Box 1450
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Sir:

Pursuant to 37 C.F.R. §41.37, the applicants hereby respectfully submit the following Brief in support of their appeal. This brief is being filed in triplicate.

(1) Real Party in Interest

The real party in interest is William Reber, L.L.C., an Illinois corporation having a primary place of business in Rolling Meadows, Illinois.

(2) Related Appeals and Interferences

The applicant previously filed an Appeal Brief dated August 9, 2005. The Examiner responded with a non-final office action and not an official Examiner's Answer. The claims at issue have been rejected at least twice and hence remain appealable under 37 C.F.R. 41.31(a)(1). There are no other related appeals or interferences known to appellant, the

appellant's legal representative, or assignee that will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

Claims 1 - 32 are pending and presently stand at least twice rejected and constitute the subject matter of this appeal.

(4) Status of Amendments

No post-final amendment has been submitted.

(5) Summary of Claimed Subject Matter

The present invention is directed generally to the optical use of an object to facilitate a task.^a The following description is made with reference to FIG. 1 of the applicant's specification (reproduced below for the convenience of the reader).

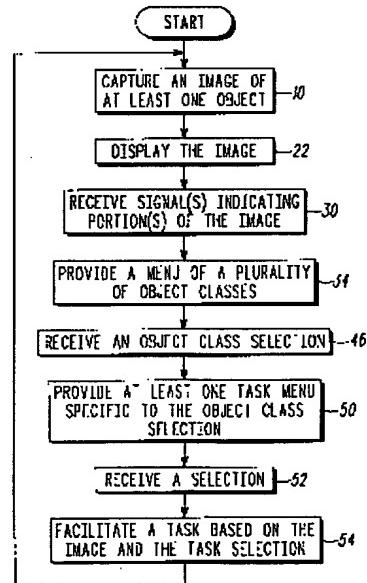
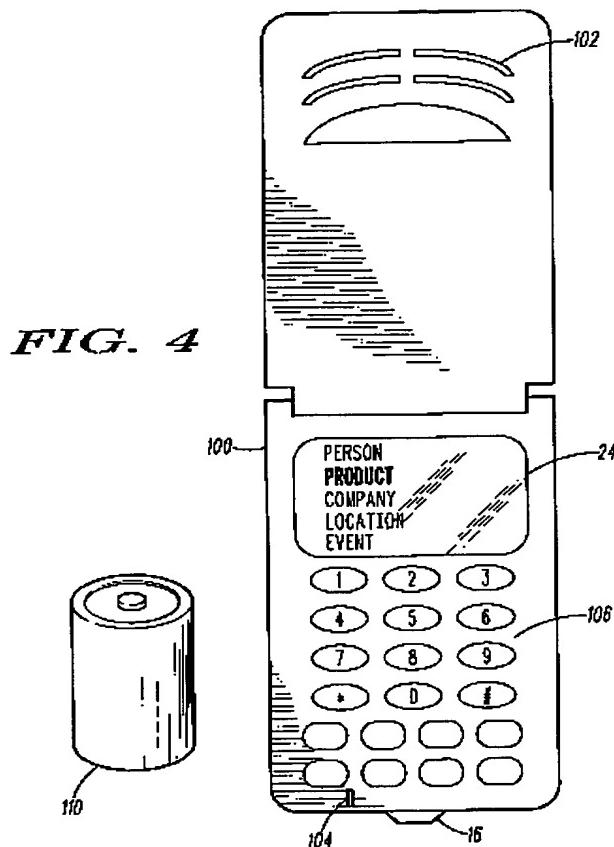


FIG. 1

^a Application page 4, line 10 – 14.

Following capture of an object image (see step 10) and display thereof (see step 22)^b, the applicant teaches provision of “a menu of a plurality of object classes” (see step 34). Exemplary object classes include a person class, a product class, a company class, a location class, an event class, and so forth.^c The applicant provides an illustrative example of such a menu in FIG. 4 (again reproduced below for the convenience of the reader).^d



In the above illustrative example, the menu of a plurality of object classes appears in a display window (24) and comprises the object classes “person,” “product,” “company,” “location,” and “event.” This menu permits a user to select^e an object class of interest as pertains to the captured image.

For example, the user may have captured an image of a building exterior having a particular automobile parked in front of it where the image also features a passerby. The user

^b Application page 4, line 24 – page 6, line 20.

^c Application page 7, line 18 – 23.

^d Application page 18, line 25 – 33.

may be interested in learning whether he or she can rent that model of automobile from a local rental agency. The object class menu can be employed in such a setting to permit the user to select a "product" class as the automobile comprises an object that is a part of a product class as distinct, for example, from a person class or a building class.

The applicant's process then provides (at step 50) at least one task menu that is specific to the particular object class that has been selected (with each such task menu preferably having a plurality of tasks that are specific to the class of objects). FIG. 3 (reproduced below) provides some illustrative specifics with respect to such task menus.

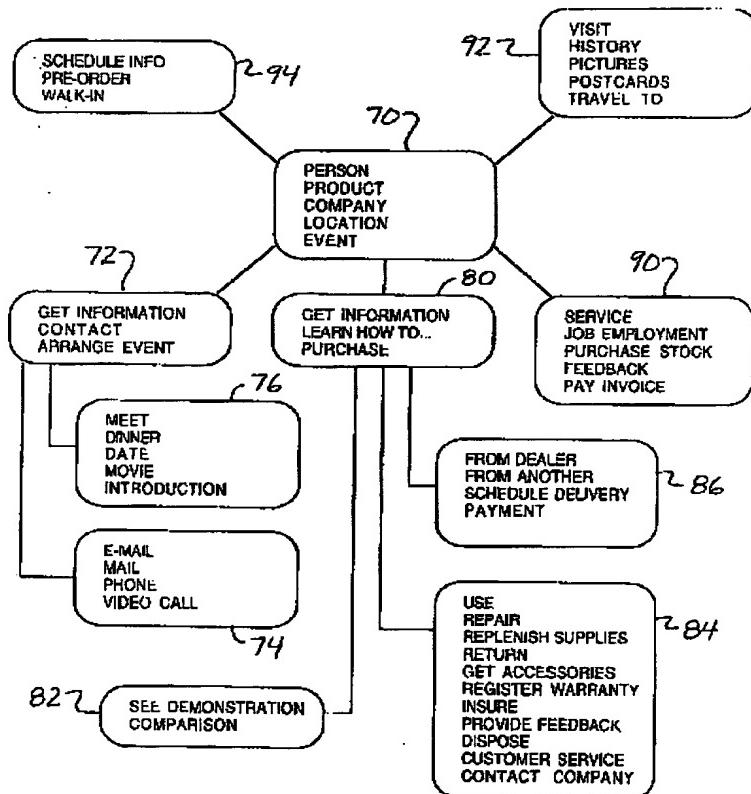


FIG. 3

For example, selection of the product class from the object class menu (70) can lead to presentation of a corresponding product class task menu (80). The latter then presents tasks that specifically correspond to products. Such tasks might include, for example, obtaining information about the product, learning how to perform various tasks that are

e See step 46 and corresponding supporting text.

associated with a given product, purchasing that product, and so forth. Selection of a different object class, however, such as a person class, leads to presentation of a different corresponding task menu (72). The latter task menu (72) then presents tasks specifically relating to this object class such as getting information regarding the person, facilitating contacting the person, or arranging an event to include the person.^f

Referring again to FIG. 1, the user can then select a particular task (step 52) and the described process can take corresponding actions to facilitate the selected task based on the captured image (step 54).^g

So configured, these teachings permit a user to capture an image of interest (using, for example, a cellular telephone having image-capture capability) and to then facilitate a task with respect to some object that the image includes. If desired, this process can further include permitting the user to select or otherwise indicate a relevant portion of the captured image that includes or comprises the object of interest to perhaps better facilitate these teachings.^h

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 2, 5 – 7, 11 – 13, 16 – 18, 22, 23, 26 – 28, and 32 are rejected under 35 U.S.C. 102(e) given Henry (U.S. Patent No. 6,530,521) (“Henry”). Claims 3, 4, 8 – 10, 14, 15, 19 – 21, 24, 25, and 29 - 31 are rejected under 35 U.S.C. 103(a) given Henry in view of Slater et al. (U.S. Patent No. 6,483,570) (“Slater”). The applicant disputes these rejections.

(7) Argument

Rejections under 35 U.S.C. 102(b)

Claims 1, 2, 5 – 7, 11 – 13, 16 – 18, 22, 23, 26 – 28, and 32

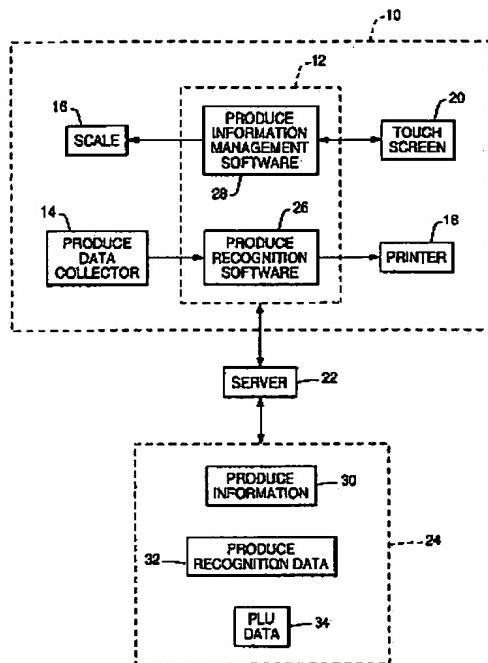
All of these claims stand rejected in view of a single reference (Henry). Prior to considering the merits of the Examiner’s position, the applicant will therefore first briefly describe and characterize the Henry reference.

^f Application page 15, line 4 – page 18, line 24.

^g Application page 8, line 20 – page 9, line 29.

^h See step 30 of FIG. 1 and the corresponding supporting text 6, line 21 – 29.

Henry discloses an approach to recognizing produce items (such as vegetables) and providing information about those items. Henry's FIG. 1 appears below for the convenience of the reader.



Henry's produce recognition apparatus (10) operates with a produce data collector (14). The latter "collects information about a produce item [such as] color and color distribution data, size data, shape data, surface texture data, and aromatic data."ⁱ Henry specifically teaches the use of a spectrometer as a mechanism to facilitate the collection of such data.

Henry further provides produce recognition software (26) that uses such data "and identifies the produce item by comparing collected produce data with a library of produce recognition data 32."^j Henry then provides a display (20) where the recognition results can be displayed to a user. Since this identification process may yield uncertain results, the display "identification information may include a candidate list of possible identities ranked in order

ⁱ Column 2, lines 37-40.

^j Column 2, lines 51-54.

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of confidence level. If so, produce information management software 28 may request that the customer verify or select a correct identity from the list.”^k

Information is then provided to the user, or other actions taken as comport with the identification of the product item. For example, if the user presents a carrot, upon identifying the proffered object as being a carrot Henry’s apparatus may assess a corresponding price and/or may offer nutrition information or carrot recipes.

Henry’s teachings do not accommodate identification of objects beyond objects that share a common object class; i.e., produce. For example, Henry’s apparatus will not support presentation of objects from other classes, such as a meat class, a dairy product class, a canned goods class, a beverage class, and so forth.

Furthermore, Henry’s optional presentation of a list of candidate objects is just that – a list of candidate objects. All of the candidate objects so presented are part of a shared object class (“produce”) and none of the candidates presented is, in and of itself, an object “class.” Instead, Henry’s objects are simply “objects” and not classes.

Such specificity well suits Henry’s limited aims. For example, in order to provide accurate pricing or nutrition information regarding a specific item of produce, it is necessary to identify that specific object itself. Merely knowing the class of the object is insufficient to such purposes, and consequently Henry must operate at the level of the object itself as versus what class of objects to which the object might belong.

The Examiner argues that “a produce item [of Henry] represents Applicant’s product and the [Henry] teaching represents capturing an image.”

First, this would seem to be an attempt to equate Henry’s produce items (such as a head of lettuce, a carrot, and so forth) with products as comprise elements of a “product class” as disclosed by the applicant and as appears, for example, in claim 2. Whether true or false, this statement does not assist the Examiner’s position. The applicant’s claims are directed to providing a menu of a plurality of object classes. It is irrelevant to a patentability analysis whether a given produce item might comprise a product that fits within a given object class (such as a produce class).

Second, and perhaps more significantly, this statement is literally incorrect as Henry

^k Column 5, lines 6-10.

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does not teach capturing an image. Instead, Henry teaches use of a spectrometer. Henry's spectrometer detector "produces waveform signals 82 containing spectral data. The pixels of the array spatially sample the continuous band of wavelengths produced by light separating element 52, and produce a set of discrete signal levels."^l Such a result can hardly be construed as a captured image of an object. Henry therefore fails to anticipate capturing an image of an object as is required by independent claims 1, 12, and 22.

The Examiner also argues that Henry "further teaches [that] the terminal determines candidate items and displays the candidates for operator verification [and that this] represents providing a plurality of object classes and receiving an object class selection from the menu."^m With all due respect, the applicant vigorously disputes that the Examiner's casual and conclusory comments in this regard are sufficient to support a determination that Henry anticipates the applicant's claims.

Henry provides an object recognition platform that is designed only to recognize objects within a specific general class - produce. The applicant can accept, at least for the purpose of argument, that one or more objects within such a class might themselves belong to a subclass. For example, apples might comprise a class of fruit within the broader class of objects that comprise produce such that specific apples (such as Jonathan or Delicious) would then comprise specific instances of objects within that sub-class. That such might be the case, however, misses the point of the claim. Henry makes no teaching or suggestion that classes be displayed as such. Instead, Henry only teaches that possible recognized object candidates are displayed in order to allow the user to identify the correct object.

In particular, Henry does not teach that the user, upon placing an item of produce on his scanner, is then presented with a menu that allows the user to select from amongst a plurality of classes such as "apples," "lettuce," and "tomatoes." Instead, Henry teaches that his apparatus attempt to recognize the object that the user has presented and to then present, if necessary, a list of candidate recognized *objects* (as versus classes of objects). For example, upon viewing an apple, Henry's apparatus might be expected to present a list of candidates such as:

Jonathon apple

^l Henry at column 3, lines 51-54.

^m Office Action at page 2, penultimate paragraph.

Macintosh apple

Delicious apple

This Henry teaches, but nothing more. Henry makes no suggestion or teaching that his list of candidate objects be anything *other* than a list of specific end-point objects. Henry does *not* teach or disclose that a menu of a plurality of object *classes* be presented and in fact is clearly seen to teach the opposite; Henry teaches only the display of specific objects and eschews a display of more generalized classes, no doubt as the latter would be unhelpful to his identified needs and purpose.

Furthermore, the applicants not only claim a menu that presents an object *class*, but also require a presentation of a *plurality* of object classes. The candidates that Henry displays are *not* object classes; they are the objects themselves which Henry does not differentiate any further. Henry is therefore seen to disclose presenting a plurality of *objects*, but *not object classes* as is required by the claims.

In these same regards, the Examiner also argues that “one of ordinary skill in the art at the time of the invention was made would realize that most grocery stores have multiple varieties of each piece of produce (e.g. organic tomatoes, local tomatoes, regular tomatoes, etc.). Therefore it is consistent with the teaching that the verification software would include an object classes (i.e. tomatoes) and then require verification of the specific type of tomatoes (candidate object).”ⁿ Assuming for the sake of argument that everything just stated is accurate, this still does not lead to anticipation of the claims. The actions described by the Examiner are different than what the claims recite. Claim 1, for example, requires providing a “menu” of a plurality of object classes.

The scenario suggested by the Examiner does not meet this requirement as a buried sense of object classes (i.e., various classes of vegetables such as tomatoes and apples), which may or may not be present in Henry, is *different* than “providing a *menu* of a plurality of object classes.” In the Examiner’s imaginative example, there is no “menu” whatsoever – the notion of object classes remains buried in the “verification software.” The only thing that Henry displays in a “menu” are selectable objects and not the object classes that may lurk in the software behind the scenes.

ⁿ Office Action at page 4, penultimate paragraph.

These differences comprise a part of each of the three independent claims presented for examination. Claim 1 includes the recitation, “providing a menu of a plurality of object classes,” independent claim 12 includes the recitation, a “user interface to provide a menu of a plurality of object classes,” and independent claim 22 includes the recitation “providing a menu of a plurality of object classes.” Since these elements comprises a part of each of the independent claims, and since these elements are utterly absent from Henry, Henry cannot be said to anticipate the recitations of these claims.

The Examiner also argues that “Henry further teaches a recognition apparatus and method obtaining information about the items [and that this] represents providing a task menu specific to the object class and receiving a task selection from the task menu.”^o Notwithstanding this unsupported conclusory statement, Henry fails in this regard as well. While Henry teaches that various tasks may be accomplished with respect to a particular piece of recognized produce (such as providing recipe information, nutritional information, or the like), the *nature* of these tasks is not seen to vary with the selected objects themselves. That is, the user is essentially presented with a same set of task opportunities regardless of which object is recognized by Henry’s apparatus. To put it simply, Henry’s tasks are *not* specific to the object that is selected. Henry discloses only a more generic offering in this regard. This contrasts sharply with the applicant’s claims which specify, for example, provision of “at least one task menu *specific* to the object class selection.”^p

The applicant therefore respectfully observes that Henry fails to anticipate the recitations of the independent claims in a plurality of ways and may be passed to allowance.^q

Rejection under 35 U.S.C. 103(a)

Claims 3, 4, 8 – 10, 14, 15, 19 – 21, 24, 25, and 29 – 31

^o Office Action at page 2, final paragraph.

^p Claim 1, emphasis provided (with independent claims 12 and 22 containing a similar limitation).

^q The applicant notes that the dependent claims that have been rejected as being anticipated by Henry introduce additional content that, particularly when viewed in context with the claim or claims from which they depend, constitutes additional incremental patentable subject matter. While the applicant believes that other arguments are therefore available to highlight the allowable subject matter presented in various of the dependent claims, the applicant also believes that the comments set forth herein regarding allowability of the independent claims are sufficiently compelling to warrant present exclusion of such additional points for the sake of brevity and expedited consideration.

These claims deal, in general, with specific object classes and the tasks that may specifically correspond thereto. For example, claim 3 states that one of the plurality of object classes specifically comprises a person class and that the corresponding task menu provides options regarding getting information about that person, contacting that person, and arranging an event with that person. The Examiner presents Slater as teaching image recognition techniques including content identification and argues that “it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Henry, in order to recognize scene objects via the object recognition data collector of Henry and then provide the user with information (tasks) associated with the identified scene objects. One of ordinary skill in the art would have been motivated to combine the art provided in order to allow user to quickly ascertain information desired about an object.”

When making a combination pursuant to 35 U.S.C. 103(a), one may not simply pick and choose from amongst the dis-aggregated elements of the references themselves. Instead, it is understood that one skilled in the art will take the references as a whole and not as a grab-bag of individual building blocks lacking any context. Here, the Examiner's suggestion ignores the full teachings and context of Henry. For example, there is no hint or suggestion regarding how the spectrometer of Henry might be employed to permit such recognition activity; for example, Henry's spectrometer does not even produce an “image.” It is also clear that Henry teaches the provision of a relatively large non-portable apparatus. There is no suggestion regarding why a given practitioner might be motivated to lead a “person” to his apparatus, or to move his apparatus to a given “company” or “location,” to permit corresponding recognition activity. The only teachings of record to suggest such usage are the applicant's teachings and those, of course, of unavailable to support such a combination.

With all due respect, the applicant posits that no suggestion exists in either of these prior art references to justify such selective picking and choosing from amongst their constituent elements as is required to support selecting specific teachings to employ and other integrated and associated teachings to ignore.

The applicant therefore respectfully submits that the rejection of these claims as being obvious in view of the prior art are not well founded and that these claims may also be passed to allowance.

^r Office action at Page 3, final paragraph.

(8) Claims Appendix

1. (Original) A method comprising:

capturing an image of at least one object; providing a menu of a plurality of object classes; receiving an object class selection from the menu; providing at least one task menu specific to the

object class selection;

receiving a task selection from the at least one task menu; and

facilitating a task associated with the at least one object based on the image and the task selection.

2. (Original) The method of claim 1 wherein the plurality of object classes includes a person class, a product class, a company class, a location class and an event class.

3. (Original) The method of claim 1 wherein the at least one object comprises a person, wherein the plurality of object classes comprises a person class, wherein the object class selection comprises the person class, and wherein the at least one task menu provides an option to get information about the person, an option to contact the person and an option to arrange an event with the person.

4. (Original) The method of claim 3 wherein the at least one task menu further provides an option to send an e-mail to the person, an option to send physical mail to the person, an option to place a telephone call to the person, and an option to place a video call to the person.

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5. (Original) The method of claim 1 wherein the at least one object comprises a product, wherein the plurality of object classes comprises a product class, wherein the object class selection comprises the product class, and wherein the at least one task menu provides an option to get information about the product, and an option to purchase the product.
6. (Original) The method of claim 5 wherein the at least one task menu further provides an option to view a demonstration of the product, an option to view a set of features of the product, an option to learn how to use the product, an option to learn how to repair the product, an option to replenish a supply for the product, an option to return the product, an option to order an accessory for the product, an option to register a warranty for the product, an option to insure the product, an option of provide feedback for the product, an option to dispose the product, an option to contact customer service for the product and an option to contact a manufacturer of the product.
7. (Original) The method of claim 5 wherein the at least one task menu further provides an option to purchase the product from a dealer, an option to purchase the product from another source, an option to schedule delivery of the product being purchased, and an option to arrange payment for the product being purchased.
8. (Original) The method of claim 1 wherein the at least one object is associated with a company, wherein the plurality of object classes comprises a company class, wherein the object class selection comprises the company class, and wherein the at least one task menu provides an option to schedule service from the company, an option to get job employment information for the company, an option to purchase stock in the company, an option to provide feedback to the company and an option to pay an invoice to the company.

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9. (Original) The method of claim 1 wherein the at least one object is associated with a location, wherein the plurality of object classes comprises a location class, wherein the object class selection comprises the location class, and wherein the at least one task menu provides an option to arrange a visit to the location, an option to get historical information about the location, an option to get at least one picture of the location, an option to get a postcard of the location and an option to get travel information to the location.

10. (Original) The method of claim 1 wherein the at least one object is associated with an event, wherein the plurality of object classes comprises an event class, wherein the object class selection comprises the event class, and wherein the at least one task menu provides an option to obtain information associated with the event, an option to order a ticket to the event and an option to make a reservation.

11. (Original) The method of claim 1 wherein said facilitating the task comprises recognizing the at least one object in the image.

12. (Original) An apparatus comprising:

a digital camera to capture an image of at least one object;
a user interface comprising a display device and a user input interface, the user interface to provide a menu of a plurality of object classes, to receive an object class selection from the menu, to provide at least one task menu specific to the object class selection, and to receive a task selection from the at least one task menu;
a transceiver to communicate via a computer network; and
a processor which cooperates with the digital camera, the user interface and the transceiver to assist in facilitating a task via the computer network based on the image and the task selection, the task being associated with the at least one object.

13. (Original) The apparatus of claim 12 wherein the plurality of object classes includes a person class, a product class, a company class, a location class and an event class.

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14. (Original) The apparatus of claim 12 wherein the at least one object comprises a person, wherein the plurality of object classes comprises a person class, wherein the object class selection comprises the person class, and wherein the at least one task menu provides an option to get information about the person, an option to contact the person and an option to arrange an event with the person.

15. (Original) The apparatus of claim 14 wherein the at least one task menu further provides an option to send an e-mail to the person, an option to send physical mail to the person, an option to place a telephone call to the person, and an option to place a video call to the person.

16. (Original) The apparatus of claim 12 wherein the at least one object comprises a product, wherein the plurality of object classes comprises a product class, wherein the object class selection comprises the product class, and wherein the at least one task menu provides an option to get information about the product, and an option to purchase the product.

17. (Original) The apparatus of claim 16 wherein the at least one task menu further provides an option to view a demonstration of the product, an option to view a set of features of the product, an option to learn how to use the product, an option to learn how to repair the product, an option to replenish a supply for the product, an option to return the product, an option to order an accessory for the product, an option to register a warranty for the product, an option to insure the product, an option of provide feedback for the product, an option to dispose the product, an option to contact customer service for the product and an option to contact a manufacturer of the product.

18. (Original) The apparatus of claim 16 wherein the at least one task menu further provides an option to purchase the product from a dealer, an option to purchase the product from another source, an option to schedule delivery of the product being purchased, and an option to arrange payment for the product being purchased.

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19. (Original) The apparatus of claim 12 wherein the at least one object is associated with a company, wherein the plurality of object classes comprises a company class, wherein the object class selection comprises the company class, and wherein the at least one task menu provides an option to schedule service from the company, an option to get job employment information for the company, an option to purchase stock in the company, an option to provide feedback to the company and an option to pay an invoice to the company.

20. (Original) The apparatus of claim 12 wherein the at least one object is associated with a location, wherein the plurality of object classes comprises a location class, wherein the object class selection comprises the location class, and wherein the at least one task menu provides an option to arrange a visit to the location, an option to get historical information about the location, an option to get at least one picture of the location, an option to get a postcard of the location and an option to get travel information to the location.

21. (Original) The apparatus of claim 12 wherein the at least one object is associated with an event, wherein the plurality of object classes comprises an event class, wherein the object class selection comprises the event class, and wherein the at least one task menu provides an option to obtain information associated with the event, an option to order a ticket to the event and an option to make a reservation.

22. (Original) A computer-readable medium comprising computer-readable content to direct a computer system having a digital camera to perform acts of:

- capturing an image of at least one object;
- providing a menu of a plurality of object classes;
- receiving an object class selection from the menu;
- providing at least one task menu specific to the object class selection;
- receiving a task selection from the at least one task menu; and
- facilitating a task associated with the at least one object based on the image and the task selection.

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23. (Original) The computer-readable medium of claim 22 wherein the plurality of object classes includes a person class, a product class, a company class, a location class and an event class.

24. (Original) The computer-readable medium of claim 22 wherein the at least one object comprises a person, wherein the plurality of object classes comprises a person class, wherein the object class selection comprises the person class, and wherein the at least one task menu provides an option to get information about the person, an option to contact the person and an option to arrange an event with the person.

25. (Original) The computer-readable medium of claim 24 wherein the at least one task menu further provides an option to send an e-mail to the person, an option to send physical mail to the person, an option to place a telephone call to the person, and an option to place a video call to the person.

26. (Original) The computer-readable medium of claim 22 wherein the at least one object comprises a product, wherein the plurality of object classes comprises a product class, wherein the object class selection comprises the product class, and wherein the at least one task menu provides an option to get information about the product, and an option to purchase the product.

27. (Original) The computer-readable medium of claim 26 wherein the at least one task menu further provides an option to view a demonstration of the product, an option to view a set of features of the product, an option to learn how to use the product, an option to learn how to repair the product, an option to replenish a supply for the product, an option to return the product, an option to order an accessory for the product, an option to register a warranty for the product, an option to insure the product, an option of provide feedback for the product, an option to dispose the product, an option to contact customer service for the product and an option to contact a manufacturer of the product.

28. (Original) The computer-readable medium of claim 26 wherein the at least one task menu further provides an option to purchase the product from a dealer, an option to purchase the product from another source, an option to schedule delivery of the product being purchased, and an option to arrange payment for the product being purchased.
29. (Original) The computer-readable medium of claim 22 wherein the at least one object is associated with a company, wherein the plurality of object classes comprises a company class, wherein the object class selection comprises the company class, and wherein the at least one task menu provides an option to schedule service from the company, an option to get job employment information for the company, an option to purchase stock in the company, an option to provide feedback to the company and an option to pay an invoice to the company.
30. (Original) The computer-readable medium of claim 22 wherein the at least one object is associated with a location, wherein the plurality of object classes comprises a location class, wherein the object class selection comprises the location class, and wherein the at least one task menu provides an option to arrange a visit to the location, an option to get historical information about the location, an option to get at least one picture of the location, an option to get a postcard of the location and an option to get travel information to the location.
31. (Original) The computer-readable medium of claim 22 wherein the at least one object is associated with an event, wherein the plurality of object classes comprises an event class, wherein the object class selection comprises the event class, and wherein the at least one task menu provides an option to obtain information associated with the event, an option to order a ticket to the event and an option to make a reservation.
32. (Original) The computer-readable medium of claim 22 wherein said facilitating the task comprises recognizing the at least one object in the image.

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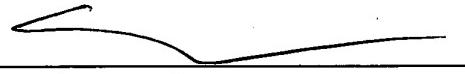
(9) Evidence Appendix

Not applicable.

(10) Related Proceeding Appendix

Not applicable.

Respectfully submitted,

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